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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/657,934	09/09/2003	Barry Wixey	TN-2347B	1594
7590 08/25/2005				
Adan Ayala, Esq. Black & Decker Inc. 701 E. Joppa Road, TW-199 Towson, MD 21286		EXAMINER SELF, SHELLEY M		
		ART UNIT 3725		PAPER NUMBER

DATE MAILED: 08/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/657,934

Applicant(s)

WIXEY ET AL.

Examiner

Shelley Self

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 07 June 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 19 and 20 is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 January 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Amendment***

The amendment filed on June 7, 2005 has been considered but is ineffective to overcome the prior art reference.

### ***Drawings***

New corrected drawings in compliance with 37 CFR 1.121(d) are required in this application in response to the Notice of Draftperson's Patent Drawing Review (PTO-948), mailed in the previous Office Action (March 9, 2005).

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3, 4, 10, 11 and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Welsh (5,771,949) as noted in the previous Office Action.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Welsh (5,771,949) alone as noted in the previous Office Action.

Claims 5-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Welsh (5,771,949) in view of Buttke (2,792,036) as noted in the previous Office Action.

Claims 12 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Welsh (5,771,949) in view of Garcia (5,957,173) as noted in the previous Office Action.

Claims 16-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Welsh (5,771,949) alone or in view of Chen (5,988,239) as noted in the previous Office Action.

#### ***Allowable Subject Matter***

Claims 19 and 20 are allowed.

The following is a statement of reasons for the indication of allowable subject matter:

The prior art of record does not disclose or fairly suggest a power planer comprising at least one nut assembly, *wherein the at least one nut assembly comprises a main body threadingly engaging the corresponding at least one guide post, a lower plate threadingly engaging the corresponding at least one guide post, at least one screw extending through the lower plate and*

*threadingly engaging the main body, and a spring disposed between the main body and the lower plate* in combination with the rest of the claimed limitations as set forth in claim 19.

The prior art reference, Welsh discloses a power planar having a carriage assembly (27) threadingly engaging a guide post (100) via nuts and bolts wherein a spring (104) is interposed between the carriage and guide post (figs. 2, 3). Welsh does not disclose a lower plate and a spring disposed between the main body of the bolt and the lower plate. Accordingly, Welsh fails to anticipate or render obvious the claimed invention as set forth in claim 19.

Neither the prior art of record nor any a combination thereof discloses the claimed invention as set forth in claim 19. Therefore, claims 19 and 20 are deemed allowable over the prior art of record.

### ***Response to Arguments***

Applicant's arguments filed June 7, 2005 have been carefully considered but they are not persuasive. Applicant's arguments are drawn to the failure of the prior art reference, Welsh to disclose, "...hand crank attached to the carriage assembly." Instead hand crank 96 is attached to frame 12." This however is not found persuasive, because Welsh discloses a hand crank (96) which is interconnected to drive rods (100) that threadably engage the carriage (27), thus Welsh does disclose the hand crank attached to the carriage (27) via rods (100). The claim as written does not preclude any intermediary structure between the hand crank and carriage. Thus Applicant's argument is not found persuasive and the rejection stands.

As to Applicants arguments that Welsh does not disclose the first and third springs of unequal forces, Examiner agrees. However, Applicant has not disclosed that first and third

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springs of unequal forces is for any particular purpose or use or solves any stated problem. In fact Applicant's disclosure is completely silent to any reasoning for utilizing springs of unequal forces and thus fails to clearly disclose criticality of spring force value(s). Welsh clearly discloses springs, the selection of optimal spring forces for each spring results from routine engineering practices and does not in itself impart patentability. Accordingly, the rejection is proper and stands.

As to Applicants arguments (clm. 16) that neither Welsh nor Chen disclose a first roller assembly lower than the cutter assembly, this argument is not found persuasive. Examiner notes figures 5 and 6 of the Chen prior art reference with regard to cutterhead assembly (60), rollers (80, 90) and coil springs. Examiner notes the center of the rollers (80, 90) is lower than that of the cutterhead assembly (60) and the rollers (80, 90) are biased in a downward traverse direction toward the planning table (50) for the purposes of efficiently feeding in and out a workpiece; whereby the rollers (80, 90) serve to grip and feed a workpiece into and out of the planning table. Examiner further notes that because the rollers center are lower than that of the cutterhead assembly, the roller is lower than the cutter assembly. Because the references are from a similar art and both utilize feed in and feed out roller to maneuver a workpiece relative to a planning table wherein the planning machine has a rotatable cutter head the references are analogous art, therefore proper combination of the references is made and the rejection stands.

With regard to Applicants arguments regarding failure of the prior art reference, Welsh to disclose, "...the lower plate engage the corresponding at least one guidepost", these arguments are deemed persuasive, accordingly the 35 U.S.C. 102(b) rejections with regard to claims 19 and 20 have been withdrawn.

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shelley Self whose telephone number is (571) 272-4524. The examiner can normally be reached Mon-Fri from 8:30am to 5:00pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's Supervisor, Derris Banks can be reached at (571) 272-4419. The fax phone numbers for the organization where this application or proceeding is assigned are (571) 273-8300 for regular and After Final communications.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR

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system, see <http://pair-direct.uspto.gov>. Should you have questions on accessing the Private

PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SSelf

August 11, 2005



**DERRIS H. BANKS**  
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